

Jason Seibert

From: Jason Seibert
Sent: Friday, May 23, 2014 3:42 PM
To: 'Moustakis, Philip'
Cc: Szczebanik, Valerie
Subject: October 3, 2012 interview with Shavers

Dear Philip,

In our initial conferral, I asked you if you had ever spoken with my client outside of deposition. You said, "yes." I asked you if you had a recording of that. You said, "no."

I've been reviewing the deposition (Doc 32-1) and you are consistently referencing and apparently reading alleged statements my client made during an interview conducted October 3rd, 2012, of my client.

Questions:

1. At the time of the October 3rd, 2012 interview, did the SEC have a formal or informal investigation opened for Mr. Shavers?
2. What was the date of the first subpoena the Commission issued to my client, and under what authority did the Commission represent it had a right to Subpoena any Defendant in this case?
3. Who was in attendance at the phone conference of October 3, 2012? Also, was a court reporter/transcriptionist present?
4. Was my client advised of his right to an attorney prior to speaking with you or any member of the Commission?
5. Was my client advised that the Commission may use the information as part of a criminal investigation?
6. Was my client advised of his Miranda rights prior to speaking with you at any point in time, or with any member of the Commission?
7. Did you advise my client prior to his deposition that his testimony could be used as part of a criminal investigation and advise my client of his Miranda rights? I do not see that anywhere in the record provided in Doc 32-1.

I look forward to your immediate response, specifically, to each question above.

Regards,

F. Jason Seibert
FJ Seibert, LLC – A Law Office
jason@seibert-law.com

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UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
New York Regional Office
Brookfield Place, 200 Vesey Street, Suite 400
New York, NY 10281-1022

DIVISION OF
ENFORCEMENT

PHILIP R. MOUSTAKIS
SENIOR ATTORNEY
(212) 336-0542
moustakisp@sec.gov

May 27, 2014

By UPS Overnight Delivery and Electronic Mail:

H. Jason Seibert, Esq.
960 Liberty Street SE, Ste. 150
Salem, OR 97302
jason@seibert-law.com

Re: SEC v. Shavers, et al., 4:13-CV-416 (RC) (ALM)

Dear Jason:

I represent the Securities and Exchange Commission in the above-referenced action. I write to address certain concerns raised by you in recent emails to Commission staff.

Mr. Shavers is a party to this litigation; it was incumbent upon him to order and review the transcript of his deposition himself. We uploaded the Commission's Motion for Summary Judgment or, in the Alternative, for Default Judgment, and all exhibits thereto, to the Court's ECF system in searchable .pdf format. You may be using outdated software. In any event, for your convenience, shortly after this letter, I will forward to you by email the motion and related exhibits in searchable .pdf format.

If you would like to request a copy of the formal order of investigation in this matter, the request must be made in writing and addressed to: Valerie A. Szczepanik, Assistant Regional Director, Division of Enforcement, U.S. Securities & Exchange Commission, Brookfield Place, 200 Vesey Street, Ste. 400, New York, NY 10281-1022. Furthermore, the request must include the following representations:

The undersigned represents [client's name] in the above captioned matter. Pursuant to 17 C.F.R. §203.7 [I/we] hereby request on behalf of [my/our] client[s] to be furnished with a copy of the Commission's Formal Order of Investigation in the above matter. [I/We] warrant that the Formal Order and information contained therein will remain confidential and will not be disseminated to any person or party except [my/our] client[s] for use in connection with [my/our] representation of [him/her/it/them] in this matter.

Please find attached for your convenience, a copy of the subpoena and related correspondence, including SEC Form 1662, sent to Mr. Shavers on September 21, 2012. Form 1662 sets forth information for persons requested to supply information voluntarily or directed to supply information pursuant to a Commission subpoena, including routine uses of information. Please know the Commission is a civil regulatory agency; it does not have criminal jurisdiction.

If you have any additional questions or concerns, please do not hesitate to let me know.

Yours truly,

A handwritten signature in blue ink, appearing to read "pm".

Philip

Enclosures: Sept. 21, 2012 subpoena to Shavers and related correspondence; Plaintiff's Motion for Summary Judgment or, in the Alternative, for Default Judgment, and exhibits thereto (by email only).